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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,592	07/15/2005	Hiroshi Harada	KOY-16174	9091

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EXAMINER	
TRAN LIEN, THUY	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
08/12/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/540,592	HARADA, HIROSHI	
	Examiner	Art Unit	
	Lien T. Tran	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2,5 and 6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2,5 and 6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/24/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the amendment filed 12/14/06, applicant adds new claim 6; this claim is not supported by the original disclosure. The specification does not disclose " pulverizing using hot air desiccating machine at the same time as the desiccating step".

Claims 2,5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2: Step b is vague and indefinite. The step recites a dehulling step to obtain " sterile dehulled soybeans"; however, it is not clear how the soybeans are sterile. Is the soybean sterile from dehulling or is there a missing step? The claim is not clear. Step c is indefinite; phrases such as " lower level, reducing denaturation" are indefinite because there is no frame of reference; lower level and reducing in comparison to what. The term " available ingredients" is indefinite because it is not clear what is included or excluded from the term; the scope of the claim cannot be determined. In step f, the phrase " predetermined grain size or less" is indefinite because it is not known what the " less" indicate because the claim does not recite what the predetermined grain size is; less than what?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al.

Lewis et al disclose a process for preparing soybeans products such as full fat soy flour, meal and grits. The process comprises the steps of cleaning soybeans so they be well-cleaned and free from extraneous weed seed, de-hulling the soybeans, heating the soybeans with live steam or water under atmospheric pressure at temperatures ranging from 85-100 degree C for 2.5-20 minutes, compressing the heated soybeans, drying the soybeans by hot air at temperatures below 95 degree C and pulverizing the treated soybeans depending on the physical form and the ultimate use of the material. (see columns 3, 5-6)

Lewis et al do not disclose a classifying step and the grain sizes as claimed.

As stated in the 112 second paragraph rejection, the limitation of " sterile dehulled soybeans" is not clear because the claim a has not set forth a sterilizing step. If the beans are sterilized by de-hulling, Lewis et al disclose the same step; thus, the same end result is obtained. Lewis et al also disclose the same heating step; thus, it is obvious the beans are deodorized, have a suppressed activity of trypsin inhibitor and reduced denaturation. It would have been obvious to include a classifying step to sort the beans to any varying sizes depending on the intended use and the properties wanted. For example, if a very fine flour is wanted, it would have been obvious to pulverizing the beans to very fine size. Such determination can readily be determined by one skilled in the art through routine experimentation.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al in view of Jp 60-105468.

Lewis et al do not teach pulverizing pulverizing using machine as the same time as the desiccating step.

Jp 60-105468 teaches pulverizing soybean with an air-stream pulverizer by introducing dried air thereto.

It would have been obvious to use the pulverizer as taught by Jp60-105468 in the Lewis et al process so that the drying and pulverizing steps can be carried out at the same time to reduce the time of processing. It would also have been obvious to carry out the step under sterile condition so that the final product is sterile. Such determination can readily be determined by one skilled in the art without undue experimentation.

In the IDS filed 6/24/05, Jp 50-157548 was not considered because an English abstract or discussion of its relevancy was not submitted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 9, 2008

/Lien T Tran/

Primary Examiner, Art Unit 1794